

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-cv-00145
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
SOUTHERN UNIVERSITY OF OHIO,)	
LLC, <i>et al.</i>,)	
)	
Defendants.)	

**AGREED ORDER
CONCERNING THE CANCELLATION OF CERTAIN COMMERCIAL AUTO
AND EXCESS LIABILITY INSURANCE POLICIES ISSUED BY THE HARTFORD
TO THE RECEIVERSHIP ENTITIES, AND OTHER RELATED RELIEF**

Upon consideration of the agreement of (i) Mark E. Dottore, as the duly appointed receiver in this case (the “Receiver”) pursuant to that certain *Order Appointing Receiver* dated January 18, 2019 [ECF Doc. 8] (as amended, the “Receivership Order”), (ii) Defendant Dream Center Education Holdings, LLC (“DCEH”) and the other related entities referenced in the Receivership Order (the “Receivership Entities”) and (iii) Intervenor, Hartford Fire Insurance Company (“the Hartford”), as evidenced by the signatures of their respective undersigned attorneys, the Court finds and orders as follows:

A. At the request of DCEH, The Hartford issued the following insurance policies providing commercial auto and excess general liability coverage to DCEH and its subsidiary entities: (i) Commercial Automobile Policy No. 40 AB S59302 for the period of 10/17/2018 to 10/17/2019 (the “Commercial Auto Policy”); and (ii) Commercial General Liability Excess Policy No. 40 ECS OF6741 for the period of 10/17/2018 to 10/17/2019 (the “Excess Liability Policy,” and together with the Commercial Auto Policy, the “Policies”).

B. As of March 31, 2019, DCEH owes \$2,619.00 in past due premiums under the Commercial Auto Policy and \$101,277.38 in past due premiums under the Excess Liability Policy, for a total past due sum of \$103,896.38 (the “Past Due Obligations”).

C. Pursuant to that certain Trust Participation Agreement by and between DCEH, The Hartford and U.S. Bank, N.A., and in accordance with Sections 9-104 and 9-314 of the Uniform Commercial Code, The Hartford maintains a first priority secured interest in and to certain funds maintained in a trust account at U.S. Bank, N.A., account no. 235923000 (the “Trust Account”), to secure the obligations of DCEH, *inter alia*, for the premiums and other charges owed under the Policies.

D. On March 20, 2019, The Hartford filed its motion to intervene in the Receivership Case. [ECF Doc. 191]. On March 21, 2019, the Court entered an order on the docket granting The Hartford’s motion to intervene. On that same day, the Court entered a further order directing the Receiver to meet and confer with The Hartford over a seven-day period to reach an agreement on the claims and issues raised by The Hartford in its motion to intervene concerning the Policies. [ECF Doc. 196].

E. The Receiver has determined in his business judgment that the coverages provided by the Commercial Auto and Excess Liability Policies are no longer needed by the Receivership Entities and thus the administrative costs to continue the coverages provided by the Policies is not in the best interests of the Receivership Estates.

F. The Hartford and the Receiver filed a Joint Interim Report with the Court on April 2, 2019 [ECF Doc. 221], concerning a proposed resolution for the Commercial Auto and Excess Liability Policies.

G. In view of the above facts, the Receiver (on behalf of DCEH and the other Receivership Entities), DCEH and The Hartford have agreed to the relief set forth below, so that The Hartford may cancel the Commercial Auto and Excess Policies and pay the Past Due Obligations owed under the Policies from the Trust Account. Accordingly, it is hereby

ORDERED that:

1. Pursuant to the authority granted to the Receiver in paragraphs 2(c) and 2(q) of the Receivership Order, and as further provided for herein, effective at 12:01 p.m. EST on April 9, 2019, the Commercial Auto and Excess Liability Policies shall be deemed cancelled and terminated on the consent of the Receiver, and shall also be deemed rejected by the Receiver.

2. Pursuant to the authority granted to the Receiver in paragraphs 22 of the Receivership Order, and as further provided for herein, The Hartford is authorized to pay the Past Due Obligations owed under the Commercial Auto and Excess Liability Policies from the Trust Account.

3. All injunctive provisions and stays contained in the Receivership Order (including, without limitation, those set forth in paragraphs 9, 10 and 14, and any future amendments or additions thereto) be and hereby are vacated and terminated as to The Hartford with respect to the matters set forth herein concerning the Commercial Auto and Excess Liability Policies.

4. The Receiver is hereby expressly authorized and directed to perform all acts and execute and deliver all documents reasonably requested by The Hartford that are necessary to effectuate the terms and provisions of this Agreed Order.

5. Nothing contained in this Agreed Order shall be deemed to waive, release or impair any rights, claims, obligations, defenses or remedies of the Receiver or The Hartford with respect to the workers compensation insurance policies issued by The Hartford to DCEH, or with respect

to the balance remaining in the Trust Account after the payment of the Past Due Obligations as authorized above.

6. This Court shall retain jurisdiction to enforce the terms and provisions of this Agreed Order.




Thomas M. Parker, United States Magistrate Judge
Electronically Signed at Cleveland, Ohio
9:33 AM, Apr 10, 2019

Agreed to and submitted by:

/s/ Mark G. Ledwin

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